

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

SEAN PATRICK MAYO

CIVIL ACTION NO. 18-cv-1040

VERSUS

CHIEF JUDGE HICKS

C. CROSS TRANSPORT, INC., ET AL

MAGISTRATE JUDGE HORNSBY

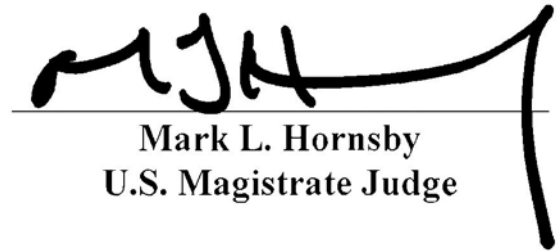
MEMORANDUM ORDER

Sean Patrick Mayo filed suit in state court against four defendants. Two of them removed the case based on an assertion of diversity jurisdiction. They admit that Plaintiff and defendant Andrea Brown are both citizens of Louisiana, but they contend removal is appropriate because the citizenship of Ms. Brown should be ignored pursuant to the improper joinder doctrine, which is outlined in Smallwood v. Illinois Central RR Co., 385 F.3d 568 (5th Cir. 2004). Plaintiff has not yet challenged the improper joinder plea, but the court is obligated to determine subject matter jurisdiction, including whether a party is improperly joined, on its own initiative. Gasch v. Hartford Acc & Indem. Co. 491 F.3rd 278, 281 (5th Cir. 2007).

If Plaintiff contests the assertion that Andrea Brown was improperly joined, he must file a motion to remand, supported by a memorandum, by **September 10, 2018** and explain why there is a reasonable basis to predict that state law would allow Plaintiff to recover against Andrea Brown. If Plaintiff timely files a motion to remand, it will be noticed for briefing so that the defendants can respond and attempt to meet their burden on the improper joinder issue. If Plaintiff does not timely file a motion to remand and challenge

the improper joinder plea, the court will consider Plaintiff to concede the point, Andrea Brown will be dismissed, and the case will proceed toward a Scheduling Order.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 20th day of August, 2018.



Mark L. Hornsby
U.S. Magistrate Judge